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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,696	09/15/2003	Jianbo Zhou	GLAUKO.034A	9776

20995 7590 12/29/2005

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EXAMINER

APANIUS, MICHAEL

ART UNIT	PAPER NUMBER
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3736

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/662,696

Applicant(s)

ZHOU ET AL.

Examiner

Michael Apanius

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09/15/2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>122203 & 032504</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:
 - a. At paragraph 29, lines 4-5, "a target collector channel region that is connects to peripheral of Schlemm's canal" is improperly worded.
 - b. At paragraph 51, line 1, word(s) are missing in "treatment of glaucoma by is".
 - c. At paragraph 72, line 7, "case" should be --cases--.
 - d. At paragraph 75, line 3, --the-- should be inserted between "at" and "vicinity".

Appropriate correction is required.

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-8 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Methods that only manipulate abstract ideas or

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concepts are considered non-statutory subject matter. In the instant case, the method as claimed comprises the steps of providing a plurality of data and subsequently determining a treatment recommendation. This method does not cause a useful, tangible and concrete result that produces a practical application, and is therefore considered to be merely an abstract manipulation of information to produce a treatment recommendation. Simple recommendations do not produce a practical application. It is recommended that the claim be amended so that it provides a useful, tangible and concrete result to overcome this rejection. For example, a positive claim limitation such as --implanting a stent in the recommended location or implanting the recommended number of stents-- would provide a useful, tangible and concrete result that produces a practical application. See MPEP 2106.

Allowable Subject Matter

5. Claims 1-8 contain allowable subject matter. However, the search will be updated after receipt of a response to this office action.
6. The following is a statement of reasons for the indication of allowable subject matter:
 - a. No prior art of records suggests or teaches a method of creating a treatment recommendation as set forth in claims 1-4 wherein a recommended location of a stent implantation or a recommended number of stents depends on a baseline intraocular pressure, target pressure or reduction, and at least one aqueous cavity datum.

- b. No prior art of records suggests or teaches a method of creating a treatment recommendation as set forth in claims 5-8 wherein a recommended location of a stent implantation or a recommended number of stents depends on a baseline intraocular pressure, target pressure or reduction, and a location or distribution of collector channels.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 5,807,302 discloses treatment of glaucoma. US 6,464,724 discloses a stent device and method for treating glaucoma. US 6,494,857 discloses a device for improving in a targeted manner and/or permanently ensuring the ability of the aqueous humor to pass through the trabecular meshwork. US 6,533,768 discloses a device for glaucoma treatment and methods thereof. US 6,638,239 discloses an apparatus and method for treating glaucoma. US 2002/0013572 discloses a delivery system and method of use for the eye. US 2002/0188308 discloses a glaucoma stent and methods for glaucoma treatment.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Apanius whose telephone number is (571) 272-5537. The examiner can normally be reached on Mon-Fri 8:30am-5pm.

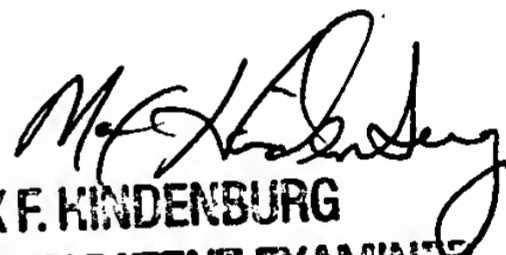
9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571) 272-4726. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MA


MAX F. KINDENBURG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700